

STANLEY E. DAVIS

IBLA 82-1031

Decided October 5, 1982

Appeal from decisions of the New Mexico State Office, Bureau of Land Management, rejecting high bids for competitive oil and gas leases. NM 53385, NM-53391 through NM-53397.

Affirmed.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases:
Discretion to Lease

The Secretary of the Interior has the authority to reject a high bid in a competitive oil and gas lease sale where the record discloses a rational basis for the conclusion that the amount of the bid was inadequate.

APPEARANCES: Stanley E. Davis, pro se; Robert J. Uram, Esq., Office of the Solicitor, Santa Fe, New Mexico, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Stanley E. Davis has appealed from decisions of the New Mexico State Office, Bureau of Land Management (BLM), dated May 24 and 25, 1982, rejecting his high bids for parcels 21 and 27 through 33 (NM-55385, NM-53391 through NM-53397, respectively) in the competitive oil and gas lease sale held April 27, 1982. The only competitive bidder of record for the eight parcels, appellant submitted an identical bid of \$325 for each one. The per acre calculations of appellant's bids range from less than \$0.52 an acre to slightly more than \$4.06 an acre.

As basis for its rejections, BLM indicated that the Minerals Management Service (MMS) recommended that each high bid be rejected as inadequate. MMS's recommendation for rejection of the bids for parcels 21, 27, 28, and 29 reads:

These tracts are located in the Vada field which produced primarily from the Bough "C" sand. * * * The [MMS] valuation for these parcels was based on previous lease data for six tracts offered in the December 16, 1980 lease sale in which the average

parcel bid was approximately \$200 acre. * * * The MMS valuation is consequently larger than the high bids received for parcels 21, 26, 27, 28 and 29.

Its recommendation for parcels 30, 31, 32, and 33 reads:

These tracts are all located in the Allison Field which produced partially for the Bough "C" sand. The [MMS] valuation for these parcels was based on previous sale data from December 16, 1980, lease sale, at which parcels * * * brought in slightly more than \$200 an acre. The presale evaluation for the subject parcels were based upon these bids, discounted for the distance between the Vada and Allison fields. The resulting per acre value was larger than the high bids received for the parcels.

In his statement of reasons, appellant has suggested that because of the size of his operations and his greater capital reserves after a lower bid, if awarded the lease, he would be able to begin production sooner and offset the low bid amount through operating revenues to the Government. He has argued that BLM should compare his bid as against the discounted value of future higher bids and also consider the lack of bids as indicative of a lower value for the parcels than that suggested by the MMS evaluation.

[1] The Secretary of the Interior has discretionary authority to reject a high bid for a competitive oil and gas lease as inadequate. 30 U.S.C. § 226(b) (1976); 43 CFR 3120.3-1. This Board has consistently upheld that authority so long as there is rational basis for the conclusion that the highest bid does not represent a fair market value for the parcel. Harris-Headrick, 66 IBLA 84 (1982); Harold R. Leeds, 60 IBLA 383 (1981); Frances J. Richmond 29 IBLA 137 (1977). Departmental policy in the administration of its competitive leasing program is to seek the return of fair market value for the grant of leases and the Secretary reserves the right to reject a bid which will not provide a fair return. Harold R. Leeds, supra, Coquina Oil Corp., 29 IBLA 310 (1977). The amount of appellant's bids would likely be insufficient to cover even the engineering and administrative costs of BLM and MMS to process the leases if issued.

MMS is the Secretary's technical expert in matters concerning geological evaluation of tracts of land offered at a sale of competitive oil and gas leases and the Secretary is entitled to rely on MMS's reasoned analysis. Harris-Headrick, supra; Harold R. Leeds, supra; Gerald S. Ostrowski, 34 IBLA 254 (1978) (MMS is the successor to the functions of the Geological Survey). Appellant's arguments on appeal reflect his personal views, but do not present definitive evidence which overcomes MMS's recommendations. His notion that lack of competitive bids suggest lower value is misplaced. A lack of competitive interest offers very little evidence with regard to the actual fair market value of the land for oil and gas leasing. Harris-Headrick, supra; Harry Ptasynski, 48 IBLA 246 (1980). As noted, the Secretary is

entitled to rely on MMS's assessment of fair market value so long as it is rationally based. Despite what appellant has argued, the records sufficiently reflect that acceptance of his bids would not produce a fair return for the Government.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

